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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,545	08/04/2005	Walter Decker	04-675	7524
34704 7590 03/27/2008 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
ROJAS, BERNARD				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,545

Applicant(s)

DECKER ET AL.

Examiner

BERNARD ROJAS

Art Unit

2832

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-22 and 25 is/are rejected.
- 7) ☒ Claim(s) 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Embodiment 1: Figure 1, claims 14-25, in the reply filed on 12/17/2008 is acknowledged.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

Claims 15-17 objected to because of the following informalities: they depend from canceled claims 13. Appropriate correction is required. For examination purposes, claims 15-17 will be treated as if they depend from claim 14.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16-21 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers [US 4,470,030].

Claim 14, Myers discloses a device having drive means rotatably mounted in a housing, said drive means comprises a drive element [13, 28], an input drive shaft [32 above 33], and an output drive shaft [32 below 33] connected to the input drive shaft, first magnet means [30] associated with said drive means and second external magnet means [60], wherein the first and second magnet means holds the drive means in a safe rest position.

Claim 16, Myers discloses a device according to claim 14, wherein the first magnet means [30] is associated with the input drive shaft [32 above 33, see figure 2].

Claim 17, Myers discloses a device according to claim 13, wherein the first magnet means [30] is associated with the output drive shaft [32 below 33, see figure 2].

Claim 18, Myers discloses a device according to claim 14, wherein the second magnet means is associated with the housing [figure 2].

Claim 19, Myers discloses a device according to claim 18, wherein the second magnet means is mounted on an internal wall of the housing.

Claim 20, Myers discloses a device according to claim 19, wherein the first magnet means defines with the second magnet means a gap therebetween [figure 2, 40 fills the gap].

Claim 21, Myers discloses a device according to claim 14, wherein the housing is subdivided by a partition into a first part and a second part [wall 12 of case 10 divides the interior space into two sections, figure 2], wherein the drive element is in the first part and the first and second magnet means [figure 2].

Claim 25, Myers discloses a device according to claim 14, wherein the drive element is selected from an electric motor [11/15 stator and 28 is the rotor].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers [US 4,470,030] as applied to claim 14 above, and further in view of Hoffman [US 6,414,577].

Claim 15, Myers discloses that the second magnet means [60] is a permanent magnet [col. 3 lines 20-23], but fails to teach that the first magnet means [30] is a permanent magnet.

Hoffman teaches an actuator with a moveable member [7] including a first permanent magnet [7] and a second permanent magnet [8] to latch the moveable member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use two permanent magnets as shown by Hoffman instead of a permanent magnet with a ferromagnetic material as shown by Myers, since applicant has not disclosed that using two permanent magnets solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the arrangement of Myers.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers [US 4,470,030] as applied to claim 14 above, and further in view of Elferich et al. [US 20020057152].

Claim 22, Myers discloses the claimed invention with the exception of using a position sensor with at least one of input drive shaft and the output drive shaft.

Elferich et al. teaches using a rotary sensor [14] to monitor the position of a shaft [6] as it is rotated by means [40, paragraph 22].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a position sensor as shown by Elferich et al. in the device of Myers in order to track the location of the shaft.

Allowable Subject Matter

Claims 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BERNARD ROJAS whose telephone number is (571)272-1998. The examiner can normally be reached on M and W-F, 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2832

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Supervisory Patent Examiner, Art
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/Bernard Rojas/
Examiner, Art Unit 2832